

**California State Board of Pharmacy**

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December 20, 2004

To: California Pharmacists and California Physicians and Surgeons

From: Patricia F. Harris                      David T. Thornton  
Executive Officer                      Executive Director  
State Board of Pharmacy              Medical Board of California

Re: Schedule II Prescriptions and Section 11167 of the Health and Safety Code

Effective January 1, 2005 all written prescriptions for schedule II-V controlled substances must be on tamper-resistant prescription forms that are purchased from state-approved, designated security printing companies.

Prescribers who do not have the tamper-resistant prescription forms may have difficulty providing good patient care when that care necessitates prescribing a Schedule II controlled substance. Prescriptions for Schedule III-V can be dispensed upon an oral or electronically transmitted prescription. Prescribers can also fax a regular prescription form for Schedule III-V drugs.

With regard to Schedule II prescriptions, prescribers without the required security forms may in limited emergency circumstances use the exception to the security form requirement offered by Section 11167 (copied below) of the Health and Safety Code to prescribe a Schedule II controlled substance for a patient in need.

The Board of Pharmacy and the Medical Board of California are most concerned that the healthcare needs of legitimate patients be met during the implementation period for the new security prescription forms. Pharmacists receiving prescriptions with the 11167 notation should exercise their professional judgment in filling these prescriptions, with the highest priority given to evaluating whether a prescription is authentic and issued for a legitimate medical purpose. This may require contacting the prescriber's office to verify the prescription. In addition, if pharmacists have reason to believe that a prescriber is delaying or avoiding use of security prescription forms, relying on Section 11167 for non-emergent Schedule II prescriptions, or otherwise misusing the limited emergency authority given by Section 11167, pharmacists may choose to file a complaint with the appropriate licensing board for the prescriber in question.

For their part, physicians need to make a good faith effort to obtain the new tamper-resistant security forms in compliance with the law and provide the written prescription on the new form by the seventh day after the initial order. The boards are concerned that patient care is not interrupted as long as both the prescribers and pharmacists are making good faith efforts to comply with this new law. There are nearly 50 approved printers with more than 1,000 distributors, so obtaining the new security forms should not be a problem.

Additional information on SB 151 is available on the Board of Pharmacy Web site: [www.pharmacy.ca.gov](http://www.pharmacy.ca.gov) and the Medical Board of California's Web site: [www.caldocinfo.ca.gov](http://www.caldocinfo.ca.gov).

**11167.** Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a controlled substance may be dispensed on an oral order, an electronic data transmission order, or a written order not made on a controlled substance form as specified in Section 11162.1, subject to all of the following requirements:

(a) The order contains all information required by subdivision (a) of Section 11164.

(b) Any written order is signed and dated by the prescriber in ink, and the pharmacy reduces any oral or electronic data transmission order to hard copy form prior to dispensing the controlled substance.

(c) The prescriber provides a written prescription on a controlled substance prescription form that meets the requirements of Section 11162.1, by the seventh day following the transmission of the initial order; a postmark by the seventh day following transmission of the initial order shall constitute compliance.

(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall make and retain a hard copy, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

(e) This section shall become operative on January 1, 2005.